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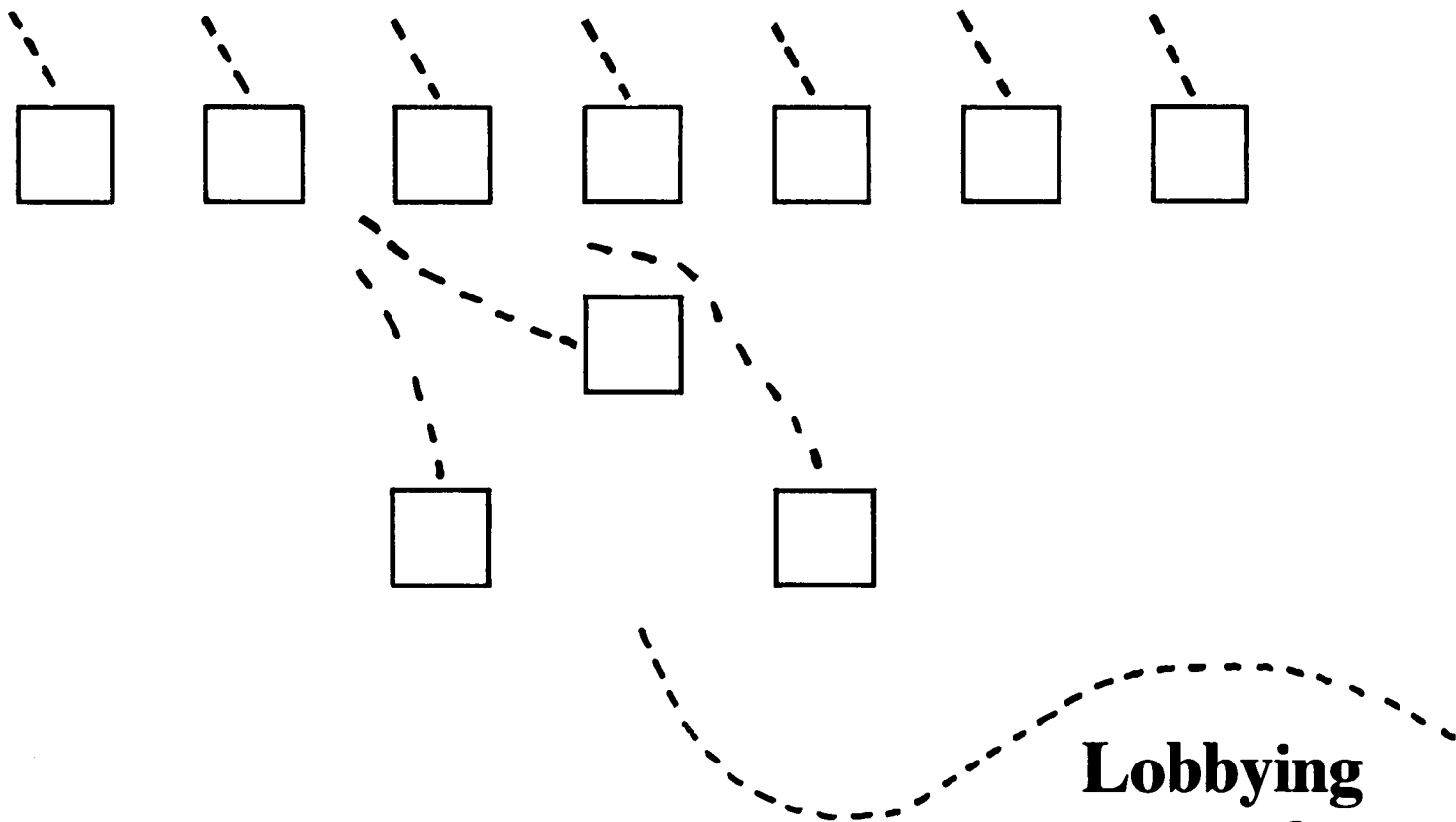
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Lobbying for Legal Services

An Interview with Michael Kantor

"The threat of a presidential veto has been enough to kill legislation aimed at taking politics out of legal services for the poor.

A section of pending poverty legislation would have established a federally financed but politically independent National Legal Services Corporation. In an almost unnoticed move, the proposal, which passed both houses of Congress, was deleted from the 1972 economic opportunities bill two weeks ago by a committee of Senate-House conferences.

The extraordinary step of abandoning a measure passed by both the Senate and House rather than reconciling slight differences between Senate and House versions, was taken by supporters of the corporation hoping to save the bill from its second veto in eight months.

The result is that the controversial poverty law program will remain within the Office of Economic Opportunity, where it has been the target of bitter criticism by some state governors and by Vice President Spiro T. Agnew."

John P. MacKenzie in Washington
Post August 26, 1972, p. 1.

L & SA How did you get into the job of lobbying for the provision to set up an independent legal services corporation?

Kantor I was requested to do so by a number of persons representative of legal service lawyers' groups, poor peoples' groups, and various national bar associations, including the ABA, the National Bar.

Action for Legal Rights was created to advocate for the establishment of a national legal services corporation.

L & SA Were you the only lobbyist working for the provision?

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Mr. Kantor is a former Legal Services attorney who first served the rural poor in South Florida and subsequently was Director of Program Development Training of Legal Services at the Office of Economic Opportunity. When this Administration fired the top officials of Legal Services, Mickey became Executive Director of Action for Legal Rights to lobby for an independent Legal Services Corporation. Since August, 1972, he has been Staff Co-Ordinator for the Campaign of Sargent Shriver.

Kantor Yes. Full time, that is. Of course, we had tremendous amounts of help at various times, at peak times when the bills were on the floor, from persons who would take leaves of absences from legal services programs, and from certain members of the bar.

L & SA How long did you work on this?

Kantor I started in January 1971. It carried through August of this year when the provision was deleted in Conference committee.

L & SA How did you go about lobbying for the provision?

Kantor I didn't really lobby. I don't think you can say that any person representing the interests of poor people can lobby, because lobbying has the connotation that you have some sort of power to affect the decisions of a Congressman. The AFL-CIO, or the National Association of Manufacturers lobby; legal services lawyers just advocate. The only thing they have is persuasion and argument and facts. That's just an aside, but I think it is very important. We went about it in a way that tried to create a sensitivity in the Congress to what we thought was a crucial issue, that is, the politicization of the legal services program. Of course, you've got to understand that there were a number of people in Congress who were already concerned, because of the events of 1970, about the legal services program, and therefore more than ready to begin to look at new alternatives. In fact, in 1970, the President's Commission on Executive Organization called for a private non-profit corporation to administer the legal services program, a joint informational report of the ABA did the same, and so did reports in early 1971 by the Young Lawyer's Section of the ABA and by the National Advisory Committee of Legal Services. The idea was legitimized by these reports, so therefore the momentum really had already begun. And, of course the concern and the

strategy was to take advantage of that momentum and try to create a vehicle which would truly protect the legal services program from political incursions.

L & SA By "the events of 1970," do you mean political interference by the Administration?

Kantor Right. Which became clearer and clearer as we got closer to the 1970 off-year elections. For instance, on June 8, 1970 Frank Carlucci, of the

OEO Staff, wrote a memo to Don Rumsfeld which began a process of change or attempted change to regionalize the legal services program, i.e. to put the program under the political control of persons in the various regions of the United States who were only subject to the political whims and interests of various local politicians, and who would not have seen the broad national movement of legal services and the recurring patterns of problems. In fact, instead of being insulated from political pressures, they would have been quite subject to them. That was the first really large issue in 1970. During that regionalization fight you had the attempt by the Administration to make political issues in the 1970 off-year elections of the Western Center of Law and Poverty in California, the Dallas Legal Services program, and the New Orleans Legal Assistance Corporation. Then came the firing after the election of Terry Lenzner and Frank Jones, who resisted the regionalization and also the use of legal services programs as political tools. And I call the elephant that broke the camel's back California Rural Legal Assistance (CRLA) — after Governor Reagan vetoed CRLA and then OEO failed to override that veto. Immediately it was clear that the Governor's attack was purely political, and later it was proved to be so.

L & SA So your efforts were not to promise favors or endorsements, or to convince them that it was in their political interest, but rather to persuade congressmen that the provision was needed in the public interest.

Kantor As innocent as that sounds. We talked about a number of things. One was the need to keep the executive and legislative branches out of the business of the judiciary. Second, I argued that poor people deserve the same sort of viable, effective, independent legal services that the more affluent have. Three, and probably most important of all, I pointed out that the strength of

services] provision was because the Administration said, "We will veto the OEO bill if an independent legal services corporation is a part of it."

L & SA Were there any particular people in the Administration who were on either side?

our institutions in an adversary society depends upon everyone having a right of access and advocacy with regard to the decisions which are being made which affect their lives. And those ideas were saleable and did sell not only to what we might call the liberals in both parties but to some very interesting conservatives. After all, those sentiments are impeccably conservative, and I think that the most gratifying part of this is that a number of congressmen whom I think should be praised, looked at this program and said, "This is what we should be doing, whether I agree with the other social programs under the Johnson Administration or not. This program has been effective and it strengthens our institutions and it brings people into the system."

L & SA Then why was the provision defeated?

Kantor The Administration, purely and simply. Interestingly enough, you know we passed the House three times and the Senate three times. We were never defeated on a roll-call vote in either body on any subject with regard to legal services for eighteen months. What happened of course is that people on the White House staff decided for ideological and political reasons that they did not want legal services in an independent environment. I am very concerned that their plan for legal services is to emasculate the program if they win on November 7. I don't know what other conclusion you can draw. We were subject to the veto on December 9, 1971. The only reason the Senate Committee deleted that [legal

Kantor No one ever surfaced in the Administration in favor of the provision. I can tell you who actively lobbied against it. First of all, the incredible situation is that OEO, supposedly the advocate of poor people, lobbied against the legal services corporation, which was supported by every poor peoples' group who ever spoke up about it. That's number one. Then in the White House you have a whole cadre of White House lobbyists and White House power lined up in the face of this provision. But even in the face of that the Congress exercised its independent judgment on six different occasions and passed the provision. What is disturbing of course is that the power of the presidency is so strong that they can threaten veto and have this bill struck from the extension of the Economic Opportunity Act. I'm still amazed or maybe I'm just naive; never once, no matter who the Congressman was or what side he took, did anyone refer to any great extent to the effects his decision would have in his prospects for re-election, one way or the other. Now maybe they did it out of my earshot, and maybe they did it and it wasn't reported to me, but it seems to me that the greatest concern was with philosophy, with the effect of the program on the public good. Yet, with the Administration on the other hand it was all political; it never got into substance; they couldn't have cared less about the substance. Maybe someday I'll go off and think about the executive: is that the way it is, or is this just a passing phase due to the peculiarities of this Administration? If it's not an aberration, then I think we have to seriously rethink about the powers of the executive branch.

"OEO lobbied against the legal service corporation which was supported by every poor people's group."

L & SA Were there any other people who took an active part in this beside you and the Administration? What was the position of the ABA, for instance?

Kantor The ABA up until December, 1971, remained neutral with regard to the political fight. The political fight with a little "p" was the bi partisan bill, which we supported, as against the bill sponsored by the Administration. The ABA had come out early for a corporation and they had set certain criteria [essentially concerning management control] which were much more consistent with the bi-partisan bill. Individuals in the ABA criticized the Administration bill quite loudly. What happened, though, in late November in 1971, was that once the Conference Committee of the House and Senate decided on one bill then Leon Jaworski, President of the ABA, sent a letter to every member of Congress supporting that bill. From that point on the ABA actively supported the bills we supported.

L & SA Who threw in the towel in the Conference Committee then?

Kantor Signals were put out by the Administration. Very direct signals, through their spokesmen on the Hill. They were Al Quie on the House side, who you know is the senior minority member of the House Education and Labor Committee, and through Bob Taft, who is the Senator from Ohio. The signal was that unless that Board was completely controlled by the President of the United States there would be no corporation; he would veto any bill that was sent to him without that. Senators Javits and Nelson decided that they would acquiesce to that position and go with an all-presidentially appointed board with no criteria and with no input from any other group. The legal services advocates on that Conference with our acquiescence and active help decided it would be better to have no corporation at all than to have one which was not independent yet insulated from public scrutiny and accountability. So that's really what it came down to. The issue was joined in August. I would hasten to say though that Nelson and Javits are great friends of the legal service corporation. It was their honest judgment that we were

better off with any kind of corporation than OEO. It was a matter of judgment. It was the judgment of the majority of the conferees, and the legal services people, and bar people that we couldn't afford to get into an institution that was going to have to survive X number of years but wasn't truly independent, that we were better off staying in OEO, fighting the bureaucracy there and waiting until the next Congress. It was our first choice that we ought to give the President the bill even if he would veto it. Number one, in hopes that maybe there was a 5% chance he would sign it. But number two, why should our friends, Democrat and Republican, veto the bill for him? We thought it would sensitize the public more than they are now to the issue. And it would make the legal profession more aware of the problem. It was my judgment that that would be very good for the legal services program. You know, the legal services program is such that when we've had political problems we've won every time they've been public. Where we get beat is in the back rooms. We can't afford to have these issues determined in the back rooms. Our only power is the power of public information, public knowledge, newspapers and media looking at these issues and exploring them. Once we get into a situation where there is no public scrutiny, we're going to get beaten, because as I said before we have no power to effect our interests.

L & SA So you are a lobbyist who tries to get things out in the open.

Kantor That's right.

L & SA How did you go about doing that? Did you work with the media a lot?

Kantor To some degree, yes. We tried with some success, although let's be honest, this is not the biggest issue in America — I think it's a hell of an important program, but it is certainly nothing like tax reform or the war in Vietnam. Our initial step was that legal services

"It was our first choice that we give the President the bill even if he would veto it."

lawyers raised money for me, and I travelled all around the country and met with all kinds of people trying to get them to sensitize local jurisdictions to bubble up support. It seemed to us, and I think it proved to be fairly true, that this is not a Washington issue and never should be. The legal service programs operate in local jurisdictions with local boards of directors with their own local priorities. So, therefore, that's where the ideas and the emphasis and the support should bubble up from. If there was any broad strategy in terms of the politics, if there are any in dealing with poor people — they're so powerless it may be a misnomer to say that there is some sort of politics here—I think maybe there is some sort of moral persuasion involved, and it should bubble up. And this was not just ideological. I think it was also strategic. It was much more effective that Congressman X from Ohio heard from poor people and civil rights groups and church groups and the League of Women Voters in his home town, than to have him hear from Mickey Kantor running around the Hill, who may or may not be representing anyone. You know, it's obvious if you work for the National Association of Manufacturers that you have some imprimatur to go in and talk to Congressman X and talk about various problems and you have some power to effect your interests. But with legal services I think what had to happen was that the interest had to bubble up and then I and others had to carry the message and work with the various Congressmen in writing sections of the bill. I worked with Republicans and Democrats, liberals and conservatives, and so on.

L & SA How did you get this interest to bubble up?

Kantor We set up regional action committees in every OEO region, and they were composed of legal services lawyers, bar people, poor people, working together to try to work on media, work on groups like labor unions, other kinds of constituencies in order to begin to sensitize their Senator and Congressman to the issue.

L & SA And you found that to be effective?

Kantor Not 100%. I certainly think that it helped a lot. You know, a lot of the most effective lobbying for poor people is done by members of Congress, by Fritz Mondale, by Alan Cranston, by Bill Ford, by Ted Kennedy. Button-holing their colleagues and talking about these issues is probably the most effective lobbying of all, or legislative advocacy. Therefore, I worked through people like that. So that what you have was maybe what you would call a pincer movement, bubbling up from the grass roots and efforts by colleagues, and in the end doing something that no one thought we could do—pass that kind of bill, and a very good bill, and pass it six times.

L & SA Did you have any amusing encounters with people on the other side?

Kantor I guess you should see humor in everything, but none of it was very amusing. You know, it bothers me that these people have no appreciation for the rights of people to have access to courts. They really are the most arrogant people I have ever dealt with in my life.

L & SA Who?

Kantor The Administration people. I guess hubris is the only word I can think of. It's an arrogance of power. They really think in their paternalistic way that they know what's best for the country, and they don't really care if anyone else has any input. And that especially goes for poor people, who don't vote for Republicans, anyway. Also, it's more than ideological; a lot of it is racial. I didn't find much humor in dealing with them. But on the other hand I have nothing but admiration for the people, Republicans and Democrats, with whom we dealt in Congress. It's incredible to me—the arrogance of the White House bureaucrat as compared with the gentlemanly conduct, the honesty of the elected officials on the Hill. I guess I'm very naive, but that was the most stark contrast to me—the people on the Hill, some in particular, are generally bright, effective and honest. I would not say that about the people from the White House. And I think this can be confirmed on the issues that other people are concerned with. My

counterparts in the child development movement, for example, would say the same thing.

L & SA Let's talk about those people for a minute. Is there a new breed of public interest lobbyist?

Kantor Yes.

L & SA Who employs them?

Kantor Well, let's take me for instance. It's very interesting—every penny, and it wasn't much, that I got paid during that year and a half, it paid for my travel around the country, too, came out of the pockets of lawyers and some from poor people. Three people gave me contributions of \$100—totally unsolicited. The rest came in from \$1 to \$25. We raised \$22-23,000 in that eighteen month period, which I think is damn good on an issue like this.

L & SA How did you do that?

Kantor We tried to get people to give us lists of people, and we wrote letters. We raised some money at rallies after Terry [Lenzner] and Frank [Jones] were fired. So we had some seed money, \$3600 or so. That's how it started.

L & SA Do these other public interest lobbyists get their money from such decentralized sources?

Kantor Some get them from unions, some from private contributions, some from particular wealthy people who want to see certain issues carried. There is a variety of sources. The problem, of course, is that the biggest source of all is unavailable, the foundations. Foundation money is not available for legislative advocacy.

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L & SA Do these other public interest lawyers who do not work only for poor people have a broader choice of tactics than you?

Kantor The environmentalists do, and the consumer groups do. The reason is that they have much more power. They are dealing with middle class people, who have influence of their own plus greater numbers of active people. You know,

poor people are not as politically sensitized because they don't have time to be; they are scratching to make a living and to exist. So therefore that is a much more effective lobby in the traditional sense, although they are not traditional in the issues they take up.

L & SA Other than issues, how are they different from the heavies in the Thomas Nast cartoons?

Kantor Well, they're very different in the sense that they never threaten political reprisals. That's just not in their book of strategies. They try to hit the issues and hit the issues hard. They try to use the media. I think really what has happened is that newspapers and the electronic media are doing what they should be doing and that is acting as public ombudsmen in this country. And the public interest lobby, especially the environmental and consumer groups who I think have done a good job, have used them in that way and I think they should. 'Used' in the best sense of the word; I don't mean manipulate. I mean using that forum to discuss issues which were heretofore not discussed. And that has an effect on the Congress. They also use the same strategy we used trying to bubble up support, which they find very effective. And we work with each other quite a bit and try to help out. They have been very, very good to legal services. Consumer and environmental groups, whose interests really aren't tied to poor people, decided to help us out, because we needed it and because they believed in what we were trying to do. And they expended resources on us, which I think is quite unusual.

L & SA Do you work closely with more traditional lobbyists?

Kantor: You know, there were 93 groups in the coalition to save legal services. Those 93 groups run the gamut, from B'Nai Brith, to the AFL-CIO, to the National Welfare Rights Association, to the League of Women Voters, to the United Auto Workers. to the National Catholic Conference.

L & SA Did you put this coalition together?

Kantor: No, it was started by the League of Women Voters and other groups. And at first they weren't concerned about

“It’s incredible to me the arrogance of the White House bureaucrat as compared with the gentlemanly conduct of the elected officials on the Hill.”

the legal services bill. We had put our own coalition together in around April 1971. It was a loose alliance in the sense that they were really concentrating on other OEO programs. When legal services was the issue of the week, we all got together.

L & SA You don’t feel that your provision was deleted so that other parts of the coalition might secure their programs?

Kantor: There was probably some pressure that way. But I have a feeling they resisted it. Obviously, there was pressure the whole way to trade off legal services for the rest of the bill. In the end, that’s to some degree what happened with Nelson and Javits — they did not want this bill vetoed. You know, it’s interesting, in 1969 in the fight over the Green amendment in the House and then in 1971 in another incident in the House, Legal Services could have traded off OEO for our betterment and we didn’t. Not that we’re heroes, because no has ever done that in the coalition, to my knowledge. And hopefully it will never happen. It’s always been a solid front. There have been cracks and people have weakened, but they have come back into the fold.

I’d like to say one thing about the unions in particular. The unions have been fantastic in helping us. You know, as much as we might concern ourselves about the power of the unions and the abuse of that power sometimes, they took on issues like legal services and their members aren’t that affected by it. But they took it on effectively . . . and I think sometimes we’re too cynical, especially about labor unions. Kenny Young of the AFL and CIO was especially helpful. He spent hours and hours helping us.

L & SA What are the satisfactions of being a public interest lobbyist?

Kantor I think number one, other than the philosophy and my ideology, is the kind of people that you deal with. Legal services is what I’ve always done. I was a public interest lobbyist because of my concern for legal services; it didn’t go the other way around. I wasn’t a public interest lobbyist that found an issue. I’ve been in every level of legal services since I got out of law school. So there’s a philosophy and ideology there, a concern for our system of justice or lack thereof, a concern that we ought to be confronting injustice in legal services. But one of the things that hits you personally is the caliber of people that you deal with, that you are allied with—they are humane, bright, committed people, whose concerns run not to material things but to issues. And that to me was my high water mark in my time with legal services. I consider them the real heroes of this country now, people like Jim Lorenz and Gary Bellows, who were at CRLA. People who weren’t out in the streets—although I’m not criticizing people in the anti-war movement—people who went from civil rights to poverty and worked their cans off and were effective. I think that all of us in this country have got to quit throwing rocks for the sake of throwing rocks and have got to begin to start hitting something. We’ve got to begin to make changes, because I think a lot of people are turned off. What we’ve done is either have huge demonstrations or a lot of rhetoric and absolutely no change whatsoever. People like Lorenz and Bellows and Cliff Sweet in Oakland and legal services offices all over the country are trying to effect reasonable, logical, necessary change.

L & SA But in your role as a lobbyist you are quite dependent on the will of the majority. There’s no judicial short-cut to take. That must at times be quite constraining and frustrating.

Kantor: It’s much more difficult than litigation, because it’s much more sophisticated. It’s interesting, there are many more

currents and cross-currents and there are no set rules in this. Litigation is not easy, and it is sophisticated too in its way, but working through the Hill you've got political concerns and you've got substantive concerns and you've got constituent concerns. You have all sorts of cross-currents affecting the issues that you are dealing with. It's frustrating, but it's satisfying, too. You know what happens with litigation is that the issues become so narrow by the time you appeal that you never end up with exactly what you wanted, either in terms of your client or the broader issue. But if you can make the change in the legislative arena, it's much more effective, much more cost-effective. Even this whole battle, with vetoes and all took a year and a half, and we almost won it and we were talking about a program which would have added another \$80 million to legal services, which would have put it in an independent setting and which would have expanded it greatly both in terms of volume and substance. It's a high-gain, high-risk forum, much more than the courts.

L & SA Is the effort to set up an independent corporation dead now?

Kantor No. It will be revived. A lot depends on the election. I think the program is in trouble in OEO after November 7. I think we can pass the Congress anytime we want to. The problem is the Administration. Of course, if Mr. Nixon is re-elected and they are a lame-duck administration. I don't know if there is any prospect of getting him to sign a relevant, independent legal services bill.

The thing that hits me after you step back and look at the larger issue, is the consistent pattern of the Administration to try to tinker with our system of justice, to make it more politically sensitive, which is just heinous. Here is Richard Nixon, the first lawyer president we've had in quite a while, who seems to have no appreciation for the need for an independent judiciary, the need for independent lawyers, the need to allow everyone equal access to the system of justice. We see that his rhetoric of wanting to strengthen our institutions is hypocritical, because the way to strengthen our institutions is to make them work and the way to make

them work is to allow people to participate in them. And that to me is the most disturbing part of this whole thing; it constantly comes back, whether it's Supreme Court appointments, or the role or lack thereof of our Justice Department the legal services program, the I.T.T. affair. You put all this together and you come out with a very insensitive, arrogant use of power. And I think to you and I, as people in this profession, it's something to be very frightened of, the manipulation of the machinery of justice by the Administration. I think we ought to be thinking about how to insulate the Justice Department and the judicial system even further from the legislative and executive branches. I see that as a great challenge in the next ten years in this country.

